



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

JLP:ddj  
Docket No: 2239-99  
21 March 2000

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 21 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by CMC memorandum 1560 MRV of 24 May 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1560

MRV

24 MAY 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF GYSGT [REDACTED]

1. GySgt [REDACTED] entered active duty on 30 Jan 80 during which time the Post Vietnam Era Veterans Education Assistance Program (VEAP) was the education program available to new servicemembers. The VEAP was available for servicemembers who first entered active duty between 1 Jan 77 and 30 Jun 85 and enrolled prior to 30 Mar 87.

2. VEAP is a program in which servicemembers elect to contribute up to \$2,700, and the service pays the servicemember \$2 towards education for every one that the servicemember contributed. Members who elected to participate could disenroll and receive a refund of their unused portion of the contribution. If they disenrolled, they could also re-enroll into VEAP at any time that they are on active duty. Servicemembers had up to 10 years after separation from active duty with which to use their VEAP benefits.

3. Public Law 104-275 was signed on 9 Oct 96. The provisions of this law, under section 106, allowed the opportunity for VEAP participants to elect to enroll in MGIB. "Participant" is defined in the Code of Federal Regulations Title 38, section 21.5021(e), and the General Counsel for Veterans affairs has determined that it refers to those with a positive dollar balance in their VEAP account. The General Counsel for Department of Defense, after review, has concurred with the VA's General Counsel opinion. Thus, in order for a servicemember to have been eligible they would have had to have been on active duty and a VEAP participant on the day of enactment of the law, 9 Oct 96. The law granted one year, until 8 Oct 97, with which to make the election.

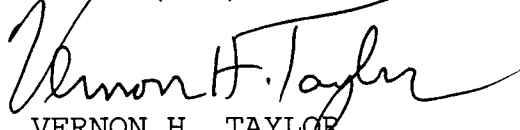
4. Marines were notified of the change pertaining to the Post Vietnam Era Veterans Education Assistance Program (VEAP) in the form of 2 ALMARS, 251/86 and 056/87 as well as via messages listed on LES's. Personal counseling on the conversion was not a program requirement. Regardless of deployments and exercises, it

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[REDACTED]

remains the Marine's responsibility to read ALMARS and statements posted on his/her LES, as well as follow through on required administrative processes. HQ USMC does not have the authority to waive the law to accommodate oversights on the part of servicemembers. [REDACTED] was provided the same notification and opportunity as other Marines affected by the change in law.

5. There are currently many proposed legislative initiatives coming under Congressional review; some of which address the VEAP participants. The Marine Corps supports legislative initiatives that benefit Marines and will continue to do so in the future.

6. The POC for Veterans Educational Programs is Ms. Catherine Mahoney, DSN 278-9550 or Commercial (703) 784-9550.

  
VERNON H. TAYLOR  
By direction